



**UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/282,239	03/31/99	GOLDMAN	S 19603/1426

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EXAMINER

HUTSON, R

ART UNIT	PAPER NUMBER
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1652

DATE MAILED:

12/05/00

**Please find below and/or attached an Office communication concerning this application r proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/282,239**

Applicant(s)

**Goldman**

Examiner

**Richard Hutson**

Group Art Unit

**1652**



☒ Responsive to communication(s) filed on Sep 20, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 1-20 is/are pending in the applicat

Of the above, claim(s) 1-16 is/are withdrawn from consideration

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 17-20 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4 & 6

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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### **DETAILED ACTION**

Claims 1-20 are still at issue and are present for examination.

Applicant's election with traverse of Group III, Claims 17-20 in Paper No. 8 is acknowledged. The traversal is on the ground(s) that the groups are closely related and therefore would require common areas of search and consideration. This is not found persuasive because while the searches for the groups overlap, they are not coextensive. For example, a search for group II would require the a search of subclass 435/93.1, while group I would require a search of subclass 435/325.

The requirement is still deemed proper and is therefore made FINAL.

Claims 1-16 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention, the requirement having been traversed in Paper No. 8.

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***Information Disclosure Statement***

1. The information disclosure statement filed 7/3/1999 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the those references that are not initialed and lined through have not been considered because copies of these references were not found in the application file.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 17-20 are rejected under 35 U.S.C. 102(a) as being anticipated by Wang et al. (Annals of Neurology, 44:438, September, 1998).

Wang et al. teach the isolation and purification of oligodendrocyte progenitor cells from the adult human subcortex using fluorescence-activated cell sorting of cells transfected with

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hGFP placed under control of the early promoter (P2) for cyclic nucleotide phosphodiesterase (P/CNP2). Thus, Wang et al. anticipate claims 17-20 to an enriched or purified preparation of human postnatal oligodendrocytes or oligodendrocytes progenitor cells.

4. Claims 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Armstrong et al. (Journal of Neuroscience 12 (4): 1538-1547, April 1992).

Armstrong et al. teach the existence and preparation of preparations enriched in human postnatal oligodendrocytes and oligodendrocytes progenitor cells. Specifically Armstrong et al. characterize the glial cell population of adult human white matter after culturing in defined medium for 1-2 weeks (see Results pages 1540-1541 and Figure 2). Armstrong teaches cultures which are enriched for both oligodendrocytes and pre-oligodendrocytes cells. Thus, Armstrong et al. anticipate claims 17-20 to an enriched or purified preparation of human postnatal oligodendrocytes or oligodendrocytes progenitor cells.

5. Claims 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Kirschenbaum et al. (Cerebral Cortex 6: 576-589, Nov/Dec 1994).

Kirschenbaum et al. teach that cells derived from the subependymal zone (SZ) and periventricular white matter of the adult human forebrain can indeed generate and differentiate

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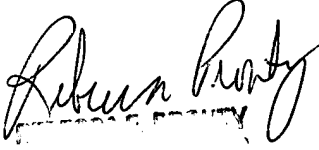
into neurons in culture. Kirschenbaum et al. teach the culturing of adult human temporal lobe tissue samples in a defined medium for 7-28 days at which point the cell populations were characterized by immunocytochemistry,  $^3\text{H}$ -thymidine labeling, calcium imaging and cellular morphology. Specifically Kirschenbaum et al. teach that subcortical white matter cultures are enriched in  $\text{O4}^+$  oligodendrocytes and fiborous astrocytes (See page 581, *Subcortical Phenotypes*), while the SZ comprises precursors that embarked upon neural differentiation (See page 584, *Source of the Neuronal Precursor Cells* and page 585, right column, second paragraph). Thus, Kirschenbaum et al. anticipate claims 17-20 to an enriched or purified preparation of human postnatal oligodendrocytes or oligodendrocytes progenitor cells.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Hutson whose telephone number is (703) 308-0066. The examiner can normally be reached on M-F from 7:30 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapy Achutamurthy (Murthy), can be reached on (703) 308-3804. The fax number for Official Papers to Technology Center 1600 is (703) 305-3014.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Richard Hutson Ph.D.  
11/28/2000

  
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